UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

DEBORAH A. GRIGGS, Plaintiff, vs. DONALD C. WINTER, SECRETARY, DEPARTMENT OF NAVY, Defendant.	CASE NO. 08CV715 JLS (POR) **ORDER (1) GRANTING MOTION TO PROCEED IN FORMA PAUPERIS and (2) DENYING MOTION FOR APPOINTMENT OF COUNSEL** (Doc. Nos. 2 & 3)

On April 18, 2008, Deborah A. Griggs ("plaintiff"), proceeding pro se, filed a complaint for "Violation of civil rights." (Doc. No. 1.) Plaintiff asks the Court to reverse the dismissal of plaintiff's Equal Employment Opportunity Commission ("EEOC") complaint for (1) untimely contact with the EEO counselor and (2) previously raising the same matter with the Merit Systems Protection Board. Plaintiff has also moved the Court to proceed in forma pauperis (Doc. No. 2) and requested an appointment of counsel pursuant to Title VII.

Motion To Proceed In Forma Pauperis

The Court may authorize the commencement of an action without the prepayment of fees if the party submits an affidavit, including a statement of assets, showing that she is unable to pay the requisite filing fee. 28 U.S.C. § 1915(a). Here, plaintiff reports $1,900/month in workers' compensation and an additional $3,200/month of spousal support. Plaintiff currently spends nearly half of her monthly income on rent and owes tax liabilities to the federal government and the states of California and Wisconsin.

Based on the information provided by plaintiff, the Court **grants** plaintiff's motion to proceed in forma pauperis. The United States Marshal shall serve a copy of the complaint and summons upon defendants as directed by plaintiff on U.S. Marshal Form 285. All costs of service shall be advanced by the United States. Defendants shall reply to the complaint within the time provided by the applicable provisions of FRCP 12(a).

Plaintiff shall serve upon defendants or, if appearance has been entered by counsel, upon defendants' counsel, a copy of every further pleading or other document submitted for consideration of the Court. Plaintiff shall include with the original paper to be filed with the Clerk of the Court a certificate stating the manner in which a true and correct copy of any document was served on the defendants or counsel of defendants and the date of service. Any paper received by a district judge or magistrate judge which has not been filed with the Clerk or which fails to include a Certificate of Service will be disregarded.

Request for Appointment of Counsel

The Court may appoint an attorney in a Title VII action "in such circumstances as the court may deem just." 42 U.S.C. § 2000e-5(f)(1). The three factors which the Court must consider are "(1) the plaintiff's financial resources, (2) the efforts made by the plaintiff to secure counsel, and (3) whether the plaintiff's claim has merit." Bradshaw v. Zoological Soc'y of San Diego, 662 F.3d 1301, 1318 (9th Cir. 1981); Elasali v. Sun Diego, 2008 WL 183635, at * 2 (S.D. Cal. Jan. 18, 2008).

Here, the Court finds that plaintiff has satisfied the first two factors, but not the third, and thus **denies** the motion. Plaintiff's lack of financial resources favor the appointment of counsel, for the reasons stated in the Court's grant of the motion to proceed in forma pauperis. Furthermore, plaintiff's efforts to secure counsel include contact with three different attorneys, all of whom would not represent plaintiff because of her inability to pay their fee. Plaintiff also contacted the EEOC about obtaining representation. The Court finds that plaintiff has made "'a reasonably diligent effort under the circumstances to obtain counsel." Bailey v. Lawford, 835 F. Supp. 550, 551 (S.D. Cal. 1993) (quoting Bradshaw, 662 F.2d at 1319. Finally, however, the

Court is not persuaded that plaintiff's claims have merit, based on the record submitted to the Court. Plaintiff's one-page complaint contains very limited factual allegations concerning the sequence of events resulting in the EEOC's denial of plaintiff's complaint. See Elasali, 2008 WL 183635 at *2 ("Such vague . . . and conclusory allegations do not convince the Court that Plaintiff has a meritorious claim for relief.") Also, while paragraph 2 of plaintiff's request for appointment for counsel states that she has attached a copy of the EEOC "Notice-of-Right-to-Sue-Letter," the Court finds that the letter is not, in fact, attached.

Conclusion

For the reasons stated herein, the Court **GRANTS** plaintiff's motion to proceed in forma pauperis and **DENIES WITHOUT PREJUDICE** plaintiff's motion for appointment of counsel.

IT IS SO ORDERED.

DATED: May 29, 2008

Janis L. Sammartino

Honorable Janis L. Sammartino
United States District Judge